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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 YOEL GUERRA,

9 *Petitioner,*

10 vs.

11 BRIAN WILLIAMS, *et al.*,

12 *Respondents.*

2:11-cv-01842-JCM-RJJ

13 ORDER

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15 In connection with petitioner's motion (#17) to vacate order, which arises under Rule
16 60 of the Federal Rules of Civil Procedure following upon the expiration of the time period for
17 seeking relief under Rule 59,

18 IT IS ORDERED that, within **thirty (30) days** of entry of this order, **respondents** shall
19 file and serve a response to the motion. The response – subject to the proviso below – shall
20 be accompanied by the relevant portion of an appropriately redacted copy of the prison legal
21 mail log from within the period from January 9, 2012, through March 2, 2012, with a covering
22 declaration or affidavit by a records custodian with personal knowledge as to the presence
23 or absence of relevant entries. If there are no entries in the log reflecting that a mailing that
24 could contain a copy of either (a) respondents' motion (#7) to dismiss filed on January 10,
25 2012, and/or (b) the *Klingele* notice (#9) entered on January 11, 2012, was available to be
26 received and/or was received by petitioner, then the records custodian simply can so attest
27 in the declaration or affidavit without the need to attach what then merely would be a
28 completely redacted copy of pages from the log. If the mail log instead reflects that either one

1 or both of the mailings were available to petitioner, either the records custodian or another
2 declarant or affiant with personal knowledge shall address petitioner's representations on
3 page 2 of his motion as to what Ms. Rashanda Smith allegedly would attest.¹

4 IT FURTHER IS ORDERED that petitioner may file a reply to respondents' response
5 within **thirty (30) days** of service of the response.

6 IT FURTHER IS ORDERED that the clerk shall forward a copy of this order to the court
7 of appeals via a notice of electronic filing.

8 DATED April 30, 2012.

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11 JAMES C. MAHAN
12 United States District Judge
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27 ¹The court is aware that an appeal is pending and of the effect of an appeal on the district court's jurisdiction to
28 entertain a Rule 60 motion. Regardless of the legal arguments presented by respondents in response to the motion, they
shall provide the underlying factual material required by this order with regard to the presence or absence of relevant
mail log entries.